

ANDERSON & KREIGER LLP

CC: BOS

PETER, PLS. NOTE

RE ART. 17

4/7/03 - (5)

STEPHEN D. ANDERSON
sanderson@andersonkreiger.com

CONFIDENTIAL

April 3, 2003

FOR SETTLEMENT PURPOSES ONLY

By Fax (508-792-7621) and Mail

Mary Jude Pigsley
Senior Regional Counsel
Department of Environmental Protection
Central Regional Office
627 Main Street
Worcester MA 01608

RE: Town of Acton Highway Department
14 Forest Road, Acton, MA
FMF ID # 131288
ACO-CE-02-9006-247A-SEP

Dear Mary:

Thank you for your letter of March 21, 2003, regarding the above matter. Briefly, I have the following responses:

1. The Town is interested in resolving this matter amicably with DEP, and the Town is also interested in attending another enforcement conference to discuss the ACO and the floor drain/tight tank issue in particular. Two members of the Board of Selectmen, three members of the Town staff, my associate and I plan to attend. Given Town Meeting and school vacation schedules, the best dates for us are during the week of May 5 at DEP's offices, beginning at 10:30 am. Please let me know what date that week works for DEP and who will attend for the Department.
2. On the "tone" issue, the Town understands the Department's need for bureaucratic consistency in the boilerplate of its ACO's. At the same time, the Town believes the "harsh" tone of the current ACO is unwarranted in this case at this time because of (a) the significant passage of time since the inception of this matter, (b) the Town's immediate, effective and ongoing compliance actions, and (c) the Town's demonstrated history of proactive, environmentally protective community

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measures. There should be a difference in kind between an ACO addressed to a corporate polluter that cuts corners to increase its bottom line and an ACO addressed to an environmentally dedicated municipality that required and promptly undertook some better maintenance measures at what is fundamentally an environmentally progressive community recycling and public works facility.

3. As for your reference to my associate's inquiries to Cecilia Catalan, the last paragraph of DEP's letter which accompanied the ACO of February 27, 2003 reads: "Should you have any questions concerning the Consent Order please contact Cecelia Catalan at (508) 792-7692 ext. 2755 as soon as possible." My associate believed he was only doing what DEP had instructed.. (After receiving your letter, I have instructed my associate that future contacts, if any, should go through DEP's legal department on this matter at this point).

Thank you. We look forward to meeting with you.

Sincerely,

Handwritten signature of Stephen D. Anderson in cursive script, followed by a vertical line and the initials "KMF".

Stephen D. Anderson

Enclosures
SDA/kmf

cc: Don Johnson, Town Manager (by email)
Doug Halley, Health Director (by email)
Dave Brown, DPW Director (by email)
Ranen Schechner (by email)

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